

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In Re:

EarthFirst Technologies Incorporated and
Electric Machinery Enterprises, Inc., et al,

Case No.: 8:08-bk-08639-MGW

Case No.: 8:08-bk-08642-MGW

Chapter 11

Debtors.

(Jointly Administered Under
Case No. 8:08-bk-08639-MGW)

William Maloney, as Chapter 11 Trustee,

Plaintiff,

v.

Adv. No. 8:13-ap-00157-MGW

Johnson Controls, Inc.,

Defendant.

**AGREED MOTION TO CONTINUE PRE-TRIAL
CONFERENCE AND HEARING ON MOTION TO DISMISS**

William Maloney, Chapter 11 Trustee ("Trustee") of Electric Machinery Enterprises, Inc. ("EME"), by counsel, hereby files this Agreed Motion to Continue the Pre-Trial Conference and Motion to Dismiss scheduled for Tuesday May 21, 2013 at 9:30 am, and in support thereof states:

PROCEDURAL BACKGROUND:

1. On June 13, 2008, EME filed a petition for relief under Chapter 11, Title 11 of the United States Code § 101, et seq.

2. On October 31, 2008, this Court entered its *Order Approving Application for Authority to Appoint Chapter 11 Trustee* (Doc. No. 273) whereby William Maloney ("Chapter 11 Trustee") was appointed Chapter 11 Trustee for EME. By virtue of this order and Rule

2012(a), *Federal Rules of Bankruptcy Procedure*, the Chapter 11 Trustee was is the plaintiff in this Adversary Proceeding.

3. The Chapter 11 Trustee filed this adversary proceeding on February 22, 2013.

4. On April 8, 2013 the Defendant filed a Motion to Dismiss this adversary proceeding (Doc. No. 5).

5. The Court scheduled a pre-trial conference and hearing on the Defendant's Motion to Dismiss on April 23, 2013, where the Court, at the request of the parties, continued the pre-trial conference and hearing until May 21, 2013 at 9:30 am.

RELIEF REQUESTED

6. Since the originally scheduled pre-trial conference and hearing the Defendant has made a settlement offer. The parties continue to discuss settlement.

7. The parties believe there is a reasonable chance this matter will be resolved if given an additional 30 to 45 days to discuss settlement, thus saving judicial resources and costs and attorneys' fees of the parties.

8. The parties have agreed to request an additional continuance of 30 to 45 days to attempt to resolve this case.

9. In accordance with Local Rule 5071(c) the Plaintiff will submit and order granting this motion.

WHEREFORE the Chapter 11 Trustee requests an additional continuance of the pre-trial conference ad hearing on the Defendant's Motion to Dismiss of 30 to 45 days, and for such other relief the Court deems appropriate.

Dated: May 20, 2013.

/s/ Leon A. Williamson, Jr.
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Certificate of Service

I hereby certify that the foregoing was provided by filing with CM/ECF to Richard A Robinson and J. Cory Falgowski, 1201 Market Street, Suite 1500, Wilmington, Delaware 19801 this 20th day of May, 2013.

/s/ Leon A. Williamson, Jr.